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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,628	01/16/2007	Itay Katz	27700U	1667
20529 7590 THE NATH LAW GROUP 112 South West Street Alexandria, VA 22314			EXAMINER SHERMAN, STEPHEN G	
			ART UNIT 2629	PAPER NUMBER
			MAIL DATE 07/21/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/593,628

Applicant(s)

KATZ, ITAY

Examiner

STEPHEN SHERMAN

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 14-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12 and 14-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 13 June 2011 has been entered. Claims 1, 3-12 and 14-22 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 3-12 and 14-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-12 and 14-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Horiki (US 2002/0140667) in view of Averbuch et al. (US 2003/0081836).

Regarding claim 1, Horiki discloses a system for inputting operation system (OS) commands to a data processing device comprising:

- (a) a video camera capturing images of a viewing space (Figure 6a, 611); and
- (b) a processor (Figure 7, 701/702/703) configured to:
 - i) detect a predetermined object in one or more images obtained by the camera using an algorithm (Paragraph [0131]);
 - ii) extract one or more image analysis parameters of the object in the one or more images obtained by the camera (Paragraph [0132]); and
 - iii) for each of one or more motion detection tests:
 - (I) applying the motion detection test to image analysis parameters extracted during a recent time window (Paragraphs [0136]-[0138]); and
 - (II) executing an operating system command associated with the motion detection test if the motion detection test succeeds (Paragraphs [0134] and [0136]-[0138]).

Averbuch et al. disclose of detecting a predetermined object in one or more images using a segmentation algorithm (Paragraph [0075]-[0077]).

Therefore, it would have been obvious to "one of ordinary skill" in the art at the time the invention was made to use the segmentation algorithm taught by Averbuch et

al. to detect the predetermined object in Horiki in order to use an algorithm that is robust, stable, and does not require any prior knowledge of the content of the input video images or sequences (See Averbuch et al., paragraph [0064]).

Regarding claim 3, Horiki and Averbuch et al. disclose the system according to claim 1, wherein the predetermined object is a finger or a stylus (Figure 8 of Horiki.).

Regarding claim 4, Horiki and Averbuch et al. disclose the system according to claim 1.

Horiki and Averbuch et al. fail to explicitly teach wherein one or more of the image analysis parameters is history independent, however, since it is not disclosed as being essential to the invention, it would have been an obvious design choice to "one of ordinary skill" in the art at the time the invention was made to make the image analysis either history dependent or independent depending upon the design characteristics of the device.

Regarding claim 5, Horiki and Averbuch et al. disclose the system according to claim 1, wherein one or more of the image analysis parameters is history dependent (Paragraph [0138] of Horiki.).

Regarding claim 6, Horiki and Averbuch et al. disclose the system according to claim 1, wherein one or more of the image analysis parameters is selected from the group consisting of:

- (a) a location of a tip of the object in an image;
- (b) a width of the object in an image;
- (c) a length of the object in an image;
- (d) an orientation of the object in an image (Figures 10-12 of Horiki.);
- (e) a speed of the object at a time the image was obtained by the camera;
- (f) a change in the width of the object at a time the image was obtained by the camera;
- (g) a rate of rotation of the object at a time the image was obtained by the camera;
- (h) an image analysis parameter having a first value if the object is detected in the image and a second value if the object is not detected in the image.

Regarding claim 7, Horiki and Averbuch et al. disclose the system according to claim 1 wherein one or more of the motion detection tests is a motion detection test detecting a motion selected from the group consisting of:

- (a) during the time window the object approached the camera;
- (b) during the time window the object moved away from the camera;
- (c) during the time window the object first approached the camera and then moved away from the camera;

(d) during the time window the object disappeared from the viewing space of the camera;

(e) during the time window the object moved in a predetermined path;

(f) during the time window the object rotated,

(g) during the time window the object was stationary,

(h) during the time window the object moved (Paragraph [0136] of Horiki.);

(i) during the time window the object performed a flicking motion;

(j) during the time window the object accelerated;

(k) during the time window the object decelerated;

(l) during the time window the object moved and then stopped.

Regarding claim 8, Horiki and Averbuch et al. disclose the system according to claim 7 wherein one or more of the motion detection tests is a motion detection test detecting that the object moved in a predetermined path during the time window (Paragraph [0137] of Horiki.).

Regarding claim 9, Horiki and Averbuch et al. disclose the system according to claim 1 wherein one or more of the OS commands is selected from the group consisting of:

(a) depressing a virtual key displayed on a screen;

(b) moving a cursor appearing on a screen (Paragraph [0137] of Horiki.)

(c) running on the processor a software application;

- (d) turning a light on or off;
- (e) turning off the system;
- (f) zooming in or out of a picture on a screen;
- (g) adjusting a radio or other entertainment device;
- (h) adjusting a medical device; and
- (i) sending a command to an application.

Regarding claim 10, Horiki and Averbuch et al. disclose a data processing device comprising the system for inputting operation system (OS) commands according to claim 1 (Figure 6 of Horiki.).

Regarding claim 11, Horiki and Averbuch et al. disclose the data processing device according to claim 10, wherein the device is selected from the group consisting of: a personal computer (PC), a portable computer, a PDA, a laptop, a palm plot, or mobile telephone, a radio, a digital camera a vehicle, a medical device, a smart home appliance, and a mobile game machine (Figure 6 of Horiki.).

Regarding claim 12, this claim is rejected under the same rationale as claim 1.

Regarding claim 14, this claim is rejected under the same rationale as claim 3.

Regarding claim 15, this claim is rejected under the same rationale as claim 4.

Regarding claim 16, this claim is rejected under the same rationale as claim 5.

Regarding claim 17, this claim is rejected under the same rationale as claim 6.

Regarding claim 18, this claim is rejected under the same rationale as claim 7.

Regarding claim 19, this claim is rejected under the same rationale as claim 8.

Regarding claim 20, this claim is rejected under the same rationale as claim 9.

Regarding claim 21, this claim is rejected under the same rationale as claim 1
plus see paragraph [0151] of Horiki.

Regarding claim 22, this claim is rejected under the same rationale as claim 1
plus see paragraph [0151] of Horiki.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Smith et al. (US 6,128,003) disclose of detecting a predetermined object in one or more images using a segmentation algorithm.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHEN SHERMAN whose telephone number is (571)272-2941. The examiner can normally be reached on M-F, 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen G Sherman/
Examiner, Art Unit 2629

19 July 2011